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N.J. BOARD OF DENTISTRY  
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STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC  
SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF DENTISTRY  
DOCKET NO.

In the Matter of )  
GARY KLEIN, D.M.D. )  
Licensed to Practice Dentistry )  
in the State of New Jersey )  
\_\_\_\_\_ )

Administrative Action

CONSENT ORDER

This matter was opened to the New Jersey State Board of Dentistry ("Board") upon receipt of an investigative report prepared by the Enforcement Bureau of the Division of Consumer Affairs which disclosed that for a period of time in or about the spring and summer of 1991 Gary Klein, D.M.D. permitted a registered dental hygienist under his supervision in his dental practice to perform dental examinations, to diagnose dental conditions, to determine and recommend treatment for patients she examined, and to determine the need for and the type of radiographs to be taken for patients she examined. The investigation further disclosed that Dr. Klein charged a fee for a dental examination even though it had been performed by the hygienist and submitted claims for such charges on behalf of the patients to third party carriers. The Board reviewed the entire record in this matter including information acquired at an

investigative inquiry attended by Dr. Klein together with his counsel on December 9, 1992. It further was disclosed during the course of the inquiry that the respondent misrepresented the nature of treatment to insurance carriers by characterizing the same treatment as scaling and root planing for patients who were on three month recall and as prophylaxis for patients who were on six month recall.

It appearing that the respondent wishes to resolve this matter without recourse to formal proceedings and without either findings or admissions of wrongdoing, and for good cause shown;

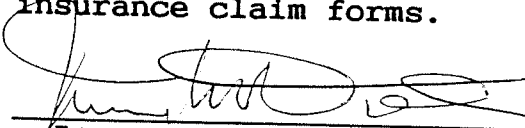
IT IS ON THIS 19<sup>th</sup> DAY OF July, 1993,  
HEREBY ORDERED AND AGREED THAT:

1. The respondent is hereby assessed a civil penalty in the amount of \$5,000 (\$2,500 for permitting a hygienist to perform duties beyond the scope of her license and \$2,500 for misrepresenting dental examinations and root scaling and planing/prophylaxis on insurance claim forms). Said civil penalty shall be submitted by check or money order made payable to the State of New Jersey and mailed to the State Board of Dentistry at 124 Halsey Street, Sixth Floor, Newark, New Jersey 07102. Payment shall be made on an installment basis over a period of twelve (12) months at an interest rate of 5.5%. The first installment of \$429.18 shall be due on July 10, 1993. Each monthly payment of \$429.18 thereafter shall be due no later than the tenth (10th) day of each month until the entire civil penalty has been paid. Any failure to make a payment by the tenth day of the month or any check returned for insufficient funds shall


cause the entire balance owing on the penalty to become immediately due and payable.

2. Respondent shall cease and desist from permitting auxiliaries to perform any acts which are not authorized and permissible pursuant to The Dental Auxiliaries Act, N.J.S.A. 45:6-48 et seq. and the Board's regulations at N.J.A.C. 13:30-2.1 et seq. A Board of Dentistry chart which demonstrates with an "X" the duties which may be permissibly delegated to dental auxiliaries is attached hereto and is made a part of this Order by reference.

3. The respondent is hereby reprimanded for his conduct in connection with the delegation of duties to a dental hygienist and for misrepresentations on insurance claim forms.

  
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Jerome M. Horowitz, D.D.S.  
President  
State Board of Dentistry

I have read and understand  
the within Order and agree  
to be bound by its terms.  
Consent is hereby given to  
the Board to enter this Order.

  
\_\_\_\_\_  
Gary Klein, D.M.D.